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7
8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1D 2001 62858

12 DEBORAH LEANNE MARLIER
13 207 West Los Angeles Avenue, #176
Moorpark, California 93021

A C C U S A T I O N

14 Physical Therapist License No. PT 14353,
15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Steven K. Hartzell (Complainant) brings this Accusation solely in his
20 official capacity as the Executive Officer of the Physical Therapy Board of California (Board).
21 2. On or about July 1, 1987, the Board issued Physical Therapist License
22 Number PT 14353 to Deborah Leanne Marlier (Respondent). This license was in full force and
23 effect at all times relevant to the charges brought herein and will expire on August 31, 2006,
24 unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Physical Therapy Board, under the
27 authority of the following laws and regulations.

28 4. Business and Professions Code section 2261 provides that:

1 “Knowingly making or signing any certificate or other document directly
2 or indirectly related to the practice of medicine or podiatry which falsely
3 represents the existence or non existence of a state of facts, constitutes
4 unprofessional conduct.”

5 5. Business and Professions Code section 2609 provides that:

6 "The board shall issue, suspend, and revoke licenses and approvals to
7 practice physical therapy as provided in this chapter [chapter 5.7, commencing
8 with section 2600]."

9 6. Business and Professions Code section 2660 states, in pertinent part:

10 "The board may, after the conduct of appropriate proceedings under the
11 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or
12 impose probationary conditions upon, or issue subject to terms and conditions any
13 license, certificate, or approval issued under this chapter for any of the following
14 causes:

15

16 "(h) Gross negligence in his or her practice as a physical therapist.

17 "(i) Conviction of a violation of any of the provisions of this chapter or of
18 the State Medical Practice Act, or violating, or attempting to violate, directly or
19 indirectly, or assisting in or abetting the violating of, or conspiring to violate any
20 provision or term of this chapter or of the State Medical Practice Act.

21 "(j) The aiding or abetting of any person to violate this chapter or any
22 regulations duly adopted under this chapter.

23 "(k) The aiding or abetting of any person to engage in the unlawful
24 practice of physical therapy.

25 "(l) The commission of any fraudulent, dishonest, or corrupt act which is
26 substantially related to the qualifications, functions, or duties of a physical
27 therapist."

28 7. Business and Professions Code section 2620.7 states:

1 "(a) A physical therapist shall document his or her evaluation, goals,
2 treatment plan, and summary of treatment in the patient record.

3 "(b) A physical therapist shall document the care actually provided to a
4 patient in the patient record.

5 "(c) A physical therapist shall sign the patient record legibly.

6 "(d) Patient records shall be maintained for a period of no less than seven
7 years following the discharge of the patient, except that the records of
8 unemancipated minors shall be maintained at least one year after the minor has
9 reached the age of 18 years, and not in any case less than seven years."

10 8. Business and Professions Code section 2630 states:

11 "It is unlawful for any person or persons to practice, or offer to practice,
12 physical therapy in this state for compensation received or expected, or to hold
13 himself or herself out as a physical therapist, unless at the time of so doing the
14 person holds a valid, unexpired, and unrevoked license issued under this chapter."

15 "Nothing in this section shall restrict the activities authorized by their
16 licenses on the part of any persons licensed under this code or any initiative act, or
17 the activities authorized to be performed pursuant to Article 4.5 (commencing
18 with Section 2655) or Chapter 7.7 (commencing with Section 3500)."

19 "A physical therapist licensed pursuant to this chapter may utilize the
20 services of one aide engaged in patient-related tasks to assist the physical therapist
21 in his or her practice of physical therapy. 'Patient-related task' means a physical
22 therapy service rendered directly to the patient by an aide, excluding non-patient-
23 related tasks. 'Non-patient-related task' means a task related to observation of the
24 patient, transport of the patient, physical support only during gait or transfer
25 training, housekeeping duties, clerical duties, and similar functions. The aide
26 shall at all times be under the orders, direction, and immediate supervision of the
27 physical therapist. Nothing in this section shall authorize an aide to independently
28 perform physical therapy or any physical therapy procedure. The board shall

1 adopt regulations that set forth the standards and requirements for the orders,
2 direction, and immediate supervision of an aide by a physical therapist. The
3 physical therapist shall provide continuous and immediate supervision of the aide.
4 The physical therapist shall be in the same facility as, and in proximity to, the
5 location where the aide is performing patient-related tasks, and shall be readily
6 available at all times to provide advice or instruction to the aide. When patient-
7 related tasks are provided to a patient by an aide, the supervising physical
8 therapist shall, at some point during the treatment day, provide direct service to
9 the patient as treatment for the patient's condition, or to further evaluate and
10 monitor the patient's progress, and shall correspondingly document the patient's
11 record.

12 "The administration of massage, external baths, or normal exercise not a
13 part of a physical therapy treatment shall not be prohibited by this section."

14 9. Business and Professions Code section 2655 states:

15 "As used in this article [article 4.5, commencing with section 2655]:

16 "(a) 'Physical therapist' means a physical therapist licensed by the board.

17 "(b) 'Physical therapist assistant' means a person who meets the
18 qualifications stated in Section 2655.3 and who is approved by the board to assist
19 in the provision of physical therapy under the supervision of a physical therapist
20 who shall be responsible for the extent, kind, and quality of the services provided
21 by the physical therapist assistant."

22 "(c) 'Physical therapist assistant' and 'physical therapy assistant' shall be
23 deemed identical and interchangeable."

24 10. California Code of Regulations, title 16, section 1398.44, states:

25 "A licensed physical therapist shall at all times be responsible for all
26 physical therapy services provided by the physical therapist assistant. The
27 supervising physical therapist has continuing responsibility to follow the progress
28 of each patient, provide direct care to the patient and to assure that the physical

1 therapist assistant does not function autonomously. Adequate supervision shall
2 include all of the following:

3 "(a) The supervising physical therapist shall be readily available in person
4 or by telecommunication to the physical therapist assistant at all times while the
5 physical therapist assistant is treating patients. The supervising physical therapist
6 shall provide periodic on site supervision and observation of the assigned patient
7 care rendered by the physical therapist assistant.

8 "(b) The supervising physical therapist shall initially evaluate each patient
9 and document in the patient record, along with his or her signature, the evaluation
10 and when the patient is to be reevaluated.

11 "(c) The supervising physical therapist shall formulate and document in
12 each patient's record, along with his or her signature, the treatment program goals
13 and plan based upon the evaluation and any other information available to the
14 supervising physical therapist. This information shall be communicated verbally,
15 or in writing by the supervising physical therapist to the physical therapist
16 assistant prior to initiation of treatment by the physical therapist assistant. The
17 supervising physical therapist shall determine which elements of the treatment
18 plan may be assigned to the physical therapist assistant. Assignment of these
19 responsibilities must be commensurate with the qualifications, including
20 experience, education and training, of the physical therapist assistant.

21 "(d) The supervising physical therapist shall reevaluate the patient as
22 previously determined, or more often if necessary, and modify the treatment, goals
23 and plan as needed. The reevaluation shall include treatment to the patient by the
24 supervising physical therapist. The reevaluation shall be documented and signed
25 by the supervising physical therapist in the patient's record and shall reflect the
26 patient's progress toward the treatment goals and when the next reevaluation shall
27 be performed.

28 "(e) The physical therapist assistant shall document each treatment in the

1 patient record, along with his or her signature. The physical therapist assistant
2 shall document in the patient record and notify the supervising physical therapist
3 of any change in the patient's condition not consistent with planned progress or
4 treatment goals. The change in condition necessitates a reevaluation by a
5 supervising physical therapist before further treatment by the physical therapist
6 assistant.

7 "(f) Within seven (7) days of the care being provided by the physical
8 therapist assistant, the supervising physical therapist shall review, cosign and date
9 all documentation by the physical therapist assistant or conduct a weekly case
10 conference and document it in the patient record. Cosigning by the supervising
11 physical therapist indicates that the supervising physical therapist has read the
12 documentation, and unless the supervising physical therapist indicates otherwise,
13 he or she is in agreement with the contents of the documentation.

14 "(g) There shall be a regularly scheduled and documented case conference
15 between the supervising physical therapist and physical therapist assistant
16 regarding the patient. The frequency of the conferences is to be determined by the
17 supervising physical therapist based on the needs of the patient, the supervisory
18 needs of the physical therapist assistant and shall be at least every thirty calendar
19 days."

20 "(h) The supervising physical therapist shall establish a discharge plan. At
21 the time of discharge, or within 7 (seven) days thereafter, a supervising physical
22 therapist shall document in the patient's record, along with his or her signature, the
23 patient's response to treatment in the form of a reevaluation or discharge
24 summary."

25 11. California Code of Regulations, title 16, section 1399, states:

26 "A physical therapy aide is an unlicensed person who assists a physical
27 therapist and may be utilized by a physical therapist in his or her practice by
28 performing non-patient related tasks, or by performing patient related tasks.

1 "(a) As used in these regulations:

2 "(1) A 'patient related task' means a physical therapy service rendered
3 directly to the patient by an aide, excluding non-patient related tasks as defined
4 below.

5 "(2) A 'non-patient related task' means a task related to observation of the
6 patient, transport of patients, physical support only during gait or transfer training,
7 housekeeping duties, clerical duties and similar functions.

8 "(b) 'Under the orders, direction and immediate supervision' means:

9 "(1) Prior to the initiation of care, the physical therapist shall evaluate
10 every patient prior to the performance of any patient related tasks by the aide. The
11 evaluation shall be documented in the patient's record.

12 "(2) The physical therapist shall formulate and record in the patient's
13 record a treatment program based upon the evaluation and any other information
14 available to the physical therapist, and shall determine those patient related tasks
15 which may be assigned to an aide. The patient's record shall reflect those patient
16 related tasks that were rendered by the aide, including the signature of the aide
17 who performed those tasks.

18 "(3) The physical therapist shall assign only those patient related tasks
19 that can be safely and effectively performed by the aide. The supervising physical
20 therapist shall be responsible at all times for the conduct of the aide while he or
21 she is on duty.

22 "(4) The physical therapist shall provide continuous and immediate
23 supervision of the aide. The physical therapist shall be in the same facility as and
24 in immediate proximity to the location where the aide is performing patient
25 related tasks, and shall be readily available at all times to provide advice or
26 instruction to the aide. When patient related tasks are provided a patient by an
27 aide the supervising physical therapist shall at some point during the treatment day
28 provide direct service to the patient as treatment for the patient's condition or to

1 further evaluate and monitor the patient's progress, and so document in the
2 patient's record.

3 "(5) The physical therapist shall perform periodic re-evaluation of the
4 patient as necessary and make adjustments in the patient's treatment program. The
5 re-evaluation shall be documented in the patient's record.

6 "(6) The supervising physical therapist shall countersign with their first
7 initial and last name, and date all entries in the patient's record, on the same day as
8 patient related tasks were provided by the aide."

9 12. Section 810(a)(2) of the Code states:

10 "(a) It shall constitute unprofessional conduct and grounds for disciplinary
11 action, including suspension or revocation of a license or certificate, for a health care
12 professional to do any of the following in connection with his or her professional activities:

13

14 (2) Knowingly prepare, make or subscribe any writing, with intent to
15 present or use the same, or to allow it to be presented or used in support of any false or fraudulent
16 claim."

17 **COST RECOVERY**

18 13. Business and Professions Code section 2661.5, subdivision (a), states:

19 "(a) In any order issued in resolution of a disciplinary proceeding before the
20 board, the board may request the administrative law judge to direct any licensee found
21 guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and
22 reasonable costs of the investigation and prosecution of the case.

23 (b) The cost to be assessed shall be fixed by the administrative law judge, and
24 shall not in any event be increased by the board. When the board does not adopt a proposed
25 decision and remands the case to an administrative law judge, the administrative law judge shall
26 not increase the amount of the assessed cost specified in the proposed decision.

27 (c) When the payment directed in an order for payment by bringing an action in
28 any appropriate court. This right of enforcement shall be in addition to any other rights the board

1 may have as to any license directed to pay cost.

2 (d) In any judicial action for the recovery of cost, proof of the board's decision
3 shall be conclusive proof of the validity of the order of payment and the terms for payment.

4 (e)(1) Except as provided in paragraph (2), the board shall not renew or reinstate
5 the license or approval of any person who has failed to pay all of the cost ordered under this
6 section.

7 (2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally
8 renew or reinstate for a maximum of one year the license or approval of any person who
9 demonstrates financial hardship and who enters into a formal agreement with the board within
10 that one year period for those unpaid cost.

11 (f) All cost recovered under this section shall be deposited in the Physical
12 Therapy Fund as a reimbursement in either the fiscal year in which the cost are actually
13 recovered or the previous fiscal year, as the board may direct."

14 14. Section 125.3 of the Code provides, in pertinent part, that the Board may
15 request the administrative law judge to direct a licentiate found to have committed a violation or
16 violations of the licensing act to pay a sum not to exceed the reasonable cost of the investigation
17 and enforcement of the case.

18 **FIRST CAUSE FOR DISCIPLINE**

19 (Aiding and Abetting the Unlicensed Practice of Physical Therapy)

20 15. Respondent is subject to disciplinary action under Business and
21 Professions Code sections 2630 and 2660, subdivisions (i), (j) and (k), and California Code of
22 Regulations, title 16, sections 1398.44 and 1399, in that she aided and abetted the unlicensed
23 practice of physical therapy. The circumstances are as follows:

24 16. Respondent owns and operates Fitness Aquatics and Sports Physical
25 Therapy facilities located in Golita, Simi Valley, Thousand Oaks and Santa Barbara, California,
26 where she provides physical therapy services to patients and supervises the services of the
27 physical therapist, physical therapist assistants and physical therapy aids. During the years 2000
28 and 2001, Respondent allowed a physical therapist assistant to conduct initial physical therapy

1 evaluations, when it was the responsibility of Respondent to evaluate the patients and provide a
2 treatment plan before the physical therapist assistant provided treatment. Respondent also failed
3 to ensure that only physical therapist in her clinic performed initial evaluations. Respondent
4 allowed a physical therapist assistant to evaluate patients¹ as follows:

- 5 a. Maura K. on or about December 7, 2000;
- 6 b. Donald L. on or about October 19, 2000;
- 7 c. Ann R. on or about October 25, 2000;
- 8 d. Frieda J. on or about October 11, 2000;
- 9 e. Robin G. on or about October 18, 2000;
- 10 f. JoAnn G. on or about July 19, 2001;
- 11 g. Doris H. on a date unknown;
- 12 h. Alice H. on or about February 8, 2001;
- 13 i. Karen D. on or about February 1, 2001;
- 14 j. George H. on or about February 15, 2001;
- 15 k. Florence W. on a date unknown;
- 16 l. Virginia A. on or about January 11, 2001;
- 17 m. Kathleen B. on or about September 20, 2000;
- 18 n. Bill S. on or about August 24, 2000;
- 19 o. Erika K. on a date unknown;
- 20 p. Margaret M. on a date unknown; and
- 21 q. Brigitte S. on a date unknown.

22 There are no initial evaluations present in the medical records of Marvin F., Freddie D., Ruth H.,
23 Margaret L., and Christina S.

24 17. The medical records indicate that the support staff, consisted of physical
25 therapist assistants and physical therapy aides, provided treatment to patients when there was no

26
27 1. For privacy, the patients in the Accusation will be identified by their first names and
28 last initials. The full names will be disclosed to Respondent upon timely request for discovery
pursuant to Government Code section 11507.6.

1 indication that any treatment was delegated by Respondent, a licensed physical therapist or any
2 other licensed physical therapist, and there was no indication when the patients were to be re-
3 evaluated by Respondent or any other supervising physical therapist. Support staff provided
4 treatments to patients as follows:

- 5 a. Maura K. on or about December 7, 2000;
- 6 b. Donald L. on or about September 14 and October 23, 2000, and July 26,
7 2001;
- 8 c. Ann R. from about June 28, 2000 through October 19, 2000;
- 9 d. Frieda J. from about July 27, 2001 through about July 29, 2002;
- 10 e. Robin G. from about May 10, 2000 through December 19, 2000;
- 11 f. JoAnn G. from about August 16, 2000 through February 25, 2002;
- 12 g. Doris H. on or about July 12, 2001;
- 13 h. Alice H. on or about February 13, 2001;
- 14 i. Karen D. on or about February 1, 5, and 23, 2001;
- 15 j. George H. from about February 22 through June 19, 2001;
- 16 k. Florence W. from about October 19, 2000 through February 15, 2001;
- 17 l. Virginia A. from about January 15, 2001 through April 16, 2001;
- 18 m. Marvin F. from about April 16, 2001 through May 29, 2001;
- 19 n. Freddie D. from about September 12, 2000 through August 28, 2001;
- 20 o. Kathleen B. from about September 20, 2000 through November 5, 2000;
- 21 p. Ruth H. on or about April 13, 2001;
- 22 q. Margaret L. from about September 15, 2000 through November 8, 2000
23 and various other dates;
- 24 r. Bill S. from about July 13, 2000 through August 25, 2000, and various
25 dates in July 2001;
- 26 s. Erika K. from about August 13, 2001 through September 14, 2001;
- 27 t. Margaret M. on or about July 5, 25, and August 8, 2001; and
- 28 u. Brigitte S. on or about April 12 and 16, 2001.

1 18. The medical records indicate that the support staff, including physical
2 therapy assistants and physical therapy aides, provided treatment to patients, but there is no
3 indication that Respondent, a licensed physical therapist, or any other licensed physical therapist,
4 provided any intervention in the treatment or direct service to the patients at some time during
5 the treatment day. Support staff provided treatment to patients as follows:

- 6 a. Maura K. on or about December 7, 8, 11, and 13, 2000;
- 7 b. Ann R. from about July 12, 2000 through February 5, 2001;
- 8 c. Robin G. from about May 10, 2000 through December 19, 2000;
- 9 d. JoAnn G. from about August 16, 2000 through February 25, 2002;
- 10 e. Alice H. on February 13, 2001;
- 11 f. Karen D. on or about February 1, 5, and 23, 2001;
- 12 g. George H. from about February 22 through June 19, 2001;
- 13 h. Florence W. from about October 19, 2000 through February 15, 2001;
- 14 i. Virginia A. from about January 15, 2001 through April 16, 2001;
- 15 j. Marvin F. from about April 16, 2001 through May 29, 2001;
- 16 k. Freddie D. from about September 12, 2000 through August 28, 2001;
- 17 l. Kathleen B. from about September 20, 2000 through October 4, 2000;
- 18 m. Margaret L. from about September 15, 2000 through November 8, 2000,
19 and various other dates;
- 20 n. Bill S. on or about July 9, 13, and 23, 2001;
- 21 o. Erika K. on or about August 22, and September 12, 13, and 14, 2001;
- 22 p. Margaret M. on or about July 5, 25, and August 8, 2001; and
- 23 q. Brigitte S. on or about April 12 and 16, 2001.

24 **SECOND CAUSE FOR DISCIPLINE**

25 (Failure to Properly Document Patient Records)

26 19. Respondent is subject to disciplinary action under Business and
27 Professions Code section 2620.7 and California Code of Regulations, title 16, sections 1398.44
28 and 1399, in that she failed to properly document patient records and she failed to ensure that her

1 staff properly document patient records. The circumstances are as set forth above in paragraphs
2 15 through 18, which are incorporated herein by reference.

3 20. Patient records lacked the required documentation, including physical
4 therapy evaluations, which were incomplete, unsigned, and not prepared by Respondent or any
5 other licensed physical therapist, and which did not contain treatment plans and goals.
6 Respondent's and her licensed physical therapy staff records did not include what physical
7 therapy services could be delegated to an aide, and when the patient would be re-evaluated by
8 Respondent or other licensed physical therapist. Respondent did not co-sign the patient records
9 on the day the services were provided by the aides, and she did not review the services the aides
10 provided to the patients, nor did she ensure that the supervising physical therapist performed
11 these tasks. Daily progress notes not were not signed and dated. There was no indication of how
12 each patient responded to the physical therapy program and/or whether any progress was made by
13 the patient. Respondent and other licensed physical therapist staff did not prepare discharge
14 summaries.

15 21. Patient records lacked the required documentation, including physical
16 therapy evaluations, which were incomplete, unsigned, and not prepared by Respondent or the
17 supervising physical therapist, and which did not contain treatment plans and goals.
18 Respondent's and her licensed physical therapy staff records did not include what physical
19 therapy service could be delegated to an aid, and when the patient would be re-evaluated by
20 Respondent or other licensed physical therapist. Respondent did not co-sign the patient records
21 on the day the services were provided by the aids, and did not review the services the aids
22 provided to the patients nor did Respondent ensure that the supervising physical therapist did
23 these task. Daily progress notes were not signed and dated by Respondent. There was no
24 indication of how each patient responded to the physical therapy program and/or whether any
25 progress was made by the patient. Respondent and other licensed physical therapist staff did not
26 prepare discharge summaries. These violations occurred regarding patients on dates as follows:

- 27 a. Maura K. - not co-signed on December 7, 8, 11, 13, 2000;
- 28 b. Donald L. - not signed on October 4, 5, and November 8, 2000;

- 1 c. Ann R. - not signed from June 28 through October 19, 2000;
- 2 d. Frieda J. - not signed from January through November 2000;
- 3 e. Robin G. - not signed from May 30 through December 19, 2000;
- 4 f. JoAnn G. - not co-signed from August 16 through February 25, 2002;
- 5 g. Doris H. - not cosigned on July 12, 2001;
- 6 h. Alice H. - not signed on February 13, 2001;
- 7 i. Karen D. - not co-signed on February 1, 5, and 23, 2001;
- 8 j. George H. - not co-signed on February 20, 2001;
- 9 k. Florence W. - not signed from October 10 through December 14, 2000;
- 10 l. Virginia A. - signatures are illegible;
- 11 m. Cristina S. - signatures are illegible;
- 12 n. Marvin F. - not co-signed from April 16 through May 29, 2001;
- 13 o. JoAnn G. - not signed on October 10, 25, 26, and November 10, 2000;
- 14 p. Freddie D. - not signed on various dates from April 25 through
- 15 November 6, 2001;
- 16 q. Kathleen B. - not signed from October 11 through November 5, 2000, and
- 17 not co-signed from September 20 through October 4, 2000;
- 18 r. Ruth H. - not signed on April 13, 2001;
- 19 s. Margaret L. - not signed from September 15 through November 10, 2000;
- 20 t. Bill S. - not signed from July 13 through August 25, 2000, and other
- 21 records had illegible signatures and dates;
- 22 u. Erika K. - not co-signed on August 13, September 12, 13, and 14, 2001,
- 23 and other records had illegible dates;
- 24 v. Margaret M. - not co-signed on July 5, 25, and August 8, 2001, and other
- 25 records had illegible signatures and dates; and
- 26 w. Brigitte S. - not co-signed on April 12 and 16, 2001.
- 27 22. At the time of patient discharge or within seven days thereafter,
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Respondent did not document in the patient records, along with Respondent's signature, the patient's response to treatment in the form of a re-evaluation or discharge summary, nor did Respondent ensure that her staff of physical therapist supervisors perform these tasks. Respondent and other licensed physical therapist staff did not prepare discharge summaries for patients Maura K., Donald L., Ann R., Robin G., JoAnn G., Doris H., Alice H., Karen D., George H., Florence W., Virginia A., Marvin F., Freddie D., Kathleen B., Ruth H., Margaret L., C.S., Bill S., Erika K., Margaret M. and Brigitte S.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence)

23. Respondent is subject to disciplinary action under sections 2660, subsection (h) of the Code, in that she failed to ensure that required records were kept and that physical therapy assistant patient records were appropriately co-signed by supervising physical therapist, failed to provide adequate documentation for such services in the patient record for those dates prior to billing and impeded the use of the emergency exit door. The circumstances are as follows:

A. Complainant refers to and by this reference incorporates paragraphs 15 through 22, inclusive, as though set forth fully.

B. In or about the period from January 1, 2000 through December 31, 2003, respondent failed as a manager, corporation officer and Chief Stockholder for Fitness Aquatics and Sports Physical Therapy, to ensure that respondent and supervising physical therapist Allison Moore, Daniel Mundorff, in the employ of Fitness Aquatics and Sports Physical Therapy, co-signed patient visit notes entered in patient records by Physical Therapy Assistants Maile Peper, Barbara Kummer, Steve Wright, Steven Steinberg, David Campbell relative to the patients listed in the First and Second Cause for Discipline. During this same time period, respondent also failed to ensure that weekly patient case conferences with these physical therapist and physical therapy assistants occurred, and were appropriately recorded.

C. In or about the period from January 1, 2000 through December 31, 2003, respondent treated the patients specified in the First and Second Cause for Discipline.

1 Thereafter, respondent and/or Fitness Aquatics and Sports Physical Therapy, recorded billing for
2 those patients for the therapy sessions, while failing to provide adequate documentation for such
3 services in the patient record for those dates prior to billing.

4 D. Respondent owns and operates Fitness Aquatics and Sports Physical
5 Therapy facilities where she provides physical therapy services to patients. During the years
6 2000 to 2003, respondent operated a facility at 7070 Marketplace Drive, Goleta, California.
7 Respondent allowed boxes to be stored in front of the back emergency exit. This impeded the
8 use of the emergency exit door.

9 E. Respondent's conduct in failing to ensure records compliance as described
10 in paragraphs 11 through 21, supra, constitutes gross negligence within the meaning of Code
11 section 2660(h) and unprofessional conduct within the meaning of Code sections 2660 and 2692.
12 Respondent's failure to provide documentation of the services for which those patients were
13 subsequently billed and the blockage of the emergency exit constitutes gross negligence in
14 violation of section 2660(h) of the Code.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 (Fraudulent, Dishonest or Corrupt Acts)

17 24. Respondent is subject to disciplinary action under section 2660, subsection
18 (l) of the Code, in that she failed to provide appropriate records for service rendered and
19 fraudulently and/or dishonestly or corruptly billed for services not rendered to a patient, in
20 violation of sections 810 and 2261 of the Code, by creating false documents and making false or
21 fraudulent claims. The circumstances are as follows:

22 A. Complainant refers to and by this reference incorporates paragraphs 15
23 through 23, inclusive, as though set forth fully.

24 B. In or about the period from January 1, 2000 through December 31, 2003,
25 Respondent and staff treated the patients specified in the First and Second Cause for Discipline.
26 Thereafter, respondent and/or Fitness Aquatics and Sports Physical Therapy, recorded billing for
27 those patients for the therapy sessions, while failing to provide adequate documentation for such
28 services in the patient record for those dates prior to billing.

1 C. In or about the period from January 1, 2000 through December 31, 2003,
2 respondent and/or Fitness Aquatics and Sports Physical Therapy charged for re-evaluations of the
3 patients specified in the First and Second Cause for Discipline. However, there was no
4 documentation in the medical records to support that the evaluation was done. Physical Therapy
5 Aids and Physical Therapist Assistants were allowed to treat these Medicare patients without any
6 supervision. The pool program was often run by an aide who treated four or more of these
7 Medicare patients at one time. They were each billed for individual treatment and not as a group
8 as required by Medicare.

9 D. Respondent's failure to provide documentation of the services for which
10 those patients were subsequently billed constitutes violation of section 2660(1) of the Code
11 (dishonest or corrupt act—billing for services not rendered.), section 2261 of the Code (false
12 documents) and section 810 of the Code (false or fraudulent claims).

13 **FIFTH CAUSE FOR DISCIPLINE**

14 (Unprofessional Conduct)

15 25. Respondent is subject to disciplinary action under section 2660 of the
16 Code in that she engaged in unprofessional conduct. The facts and circumstances, set forth in
17 Paragraphs 15 through 24 of this Accusation, are incorporated herein by reference.

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1 PRAYER

2 **WHEREFORE**, Complainant requests that a hearing be held on the matters
3 herein alleged, and that following the hearing, the Physical Therapy Board of California issue a
4 decision:

5 1. Revoking or suspending Physical Therapist License Number PT 14353,
6 issued to Deborah Leanne Marlier;

7 2. Ordering Deborah Leanne Marlier to pay the Physical Therapy Board of
8 California the reasonable costs of the investigation and enforcement of this case, pursuant to
9 Business and Professions Code section 2661.5;

10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: July 24, 2006

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13 Original Signed By:
14 STEVEN K. HARTZELL
15 Executive Officer
Physical Therapy Board of California
State of California

16 Complainant

17 Marlier, D. Accusation.wpd
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